

or reallocation of funds under sections 462, 442, and 413D of the HEA, respectively.

(Authority: 20 U.S.C. 1070b-3 and 1087bb; 42 U.S.C. 2752)

#### § 673.4 Allocation and reallocation.

(a) *Allocation and reallocation of Federal Perkins Loan funds.* (1) The Secretary allocates Federal capital contributions to institutions participating in the Federal Perkins Loan Program in accordance with section 462 of the HEA.

(2) The Secretary reallocates Federal capital contributions to institutions participating in the Federal Perkins Loan Program by—

(i) Reallocating 80 percent of the total funds available in accordance with section 462(j) of the HEA; and

(ii) Reallocating 20 percent of the total funds available in a manner that best carries out the purposes of the Federal Perkins Loan Program.

(b) *Allocation and reallocation of FWS funds.* The Secretary allocates and reallocates funds to institutions participating in the FWS Program in accordance with section 442 of the HEA.

(c) *Allocation and reallocation of FSEOG funds.* (1) The Secretary allocates funds to institutions participating in the FSEOG program in accordance with section 413D of the HEA.

(2) The Secretary reallocates funds to institutions participating in the FSEOG Program in a manner that best carries out the purposes of the FSEOG Program.

(d) *General allocation and reallocation—*(1) *Categories.* As used in section 462 (Federal Perkins Loan Program), section 442 (FWS Program), and section 413D (FSEOG Program) of the HEA, “Eligible institutions offering comparable programs of instruction” means institutions that are being compared with the applicant institution and that fall within one of the following six categories:

- (i) Cosmetology.
- (ii) Business.
- (iii) Trade/Technical.
- (iv) Art Schools.
- (v) Other Proprietary Institutions.
- (vi) Non-Proprietary Institutions.

(2) *Payments to institutions.* The Secretary allocates funds for a specific pe-

riod of time. The Secretary provides an institution its allocation in accordance with the payment methods described in 34 CFR 668.162.

(3) *Unexpended funds.* (i) If an institution returns more than 10 percent of its Federal Perkins Loan, FWS, or FSEOG allocation for an award year, the Secretary reduces the institution’s allocation for that program for the second succeeding award year by the dollar amount returned.

(ii) The Secretary may waive the provision of paragraph (d)(3)(i) of this section for a specific institution if the Secretary finds that enforcement would be contrary to the interests of the program.

(iii) The Secretary considers enforcement of paragraph (d)(3)(i) of this section to be contrary to the interest of the program only if the institution returns more than 10 percent of its allocation due to circumstances beyond the institution’s control that are not expected to recur.

(e) *Anticipated collections of Federal Perkins Loan funds.* (1) For the purposes of calculating an institution’s share of any excess allocation of Federal Perkins Loan funds, an institution’s anticipated collections are equal to the amount that was collected by the institution during the second year preceding the beginning of the award period multiplied by 1.21.

(2) The Secretary may waive the provision of paragraph (e)(1) of this section for any institution that has a cohort default rate that does not exceed 7.5 percent.

(f) *Authority to expend FWS funds.* Except as specifically provided in 34 CFR 675.18 (b), (c), and (f), an institution may not use funds allocated or reallocated for an award year—

(1) To meet FWS wage obligations incurred with regard to an award of FWS employment made for any other award year; or

(2) To satisfy any other obligation incurred after the end of the designated award year.

(g) *Authority to expend FSEOG funds.* Except as specifically provided in 34 CFR 668.164(g), an institution shall not use funds allocated or reallocated for an award year—

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(1) To make FSEOG disbursements to students in any other award year; or

(2) To satisfy any other obligation incurred after the end of the designated award year.

(Authority: 20 U.S.C. 1070b-3 and 1087bb, 42 U.S.C. 2752)

### § 673.5 Overaward.

(a) *Overaward prohibited*—(1) *Federal Perkins Loan and FSEOG Programs*. An institution may only award or disburse a Federal Perkins loan or an FSEOG to a student if that loan or the FSEOG, combined with the other estimated financial assistance the student receives, does not exceed the student's financial need.

(2) *FWS Program*. An institution may only award FWS employment to a student if the award, combined with the other estimated financial assistance the student receives, does not exceed the student's financial need.

(b) *Awarding and disbursement*. (1) When awarding and disbursing a Federal Perkins loan or an FSEOG or awarding FWS employment to a student, the institution shall take into account those amounts of estimated financial assistance it—

(i) Can reasonably anticipate at the time it awards Federal Perkins Loan funds, an FSEOG, or FWS funds to the student;

(ii) Makes available to its students; or

(iii) Otherwise knows about.

(2) If a student receives amounts of estimated financial assistance at any time during the award period that were not considered in calculating the Federal Perkins Loan amount or the FWS or FSEOG award, and the total amount of estimated financial assistance including the loan, the FSEOG, or the prospective FWS wages exceeds the student's need, the overaward is the amount that exceeds need.

(c) *Estimated financial assistance*. (1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, the Secretary considers that “estimated financial assistance” includes, but is not limited to, any—

(i) Funds a student is entitled to receive from a Federal Pell Grant;

(ii) William D. Ford Federal Direct Loans;

(iii) Federal Family Education Loans;

(iv) Long-term need-based loans, including Federal Perkins loans;

(v) Grants, including FSEOGs, State grants, Academic Competitiveness Grants, and National SMART Grants;

(vi) Scholarships, including athletic scholarships;

(vii) Waivers of tuition and fees;

(viii) Fellowships or assistantships, except non-need-based employment portions of such awards;

(ix) Except as provided in paragraph (c)(2)(v) of this section, veterans' education benefits;

(x) National service education awards or post-service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps);

(xi) Net earnings from need-based employment;

(xii) Insurance programs for the student's education; and

(xiii) Any educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses.

(2) The Secretary does not consider as estimated financial assistance—

(i) Any portion of the estimated financial assistance described in paragraph (c)(1) of this section that is included in the calculation of the student's expected family contribution (EFC);

(ii) Earnings from non-need-based employment;

(iii) Those amounts used to replace EFC, including the amounts of any TEACH Grants, unsubsidized Federal Stafford or Direct Loans, Federal PLUS or Federal Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the amounts received that are being used to replace the student's EFC actually exceed the EFC, the excess amount must be treated as estimated financial assistance;

(iv) Assistance not received under a title IV, HEA program, if that assistance is designated to offset all or a portion of a specific component of the cost of attendance and that amount is excluded from the cost of attendance as